UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,403	06/06/2001	Srinivas V.R. Gutta	US010127	7747

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EXAMINER
RAMAN, USHA

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
08/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/875,403	GUTTA ET AL.
	Examiner	Art Unit	
	Usha Raman	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 June 2007</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>6,13,15,16,19,21,22,25 and 26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,6,13,15,16,19,21,22 and 25</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Miscellaneous

1. The last Final Office action with mail date *20070818* was incomplete. Accordingly, this corrected Office action is to supercede the last Office Action. The period for reply of **3 MONTHS** set in the Office action is restarted to begin with the mailing date of this letter.

Response to Arguments

2. Applicant's arguments filed June 8th, 2007 have been fully considered but they are not persuasive.

Applicant's amendment fails to overcome the rejection of claims under 35 USC 101 because the claims are still directed to non-statutory subject matter (i.e. program listing). Applicant is advised to amend the preamble of the claim language to one of the following formats:

- "computer readable medium" encoded with _____
  1. " a computer program",
  2. "software",
  3. "computer executable instructions"
  4. "instructions capable of being executed by a computer"

- "a computer readable medium" _____ "computer program"
  a. storing a
  b. embodied with a
  c. encoded with a
  d. having a stored

        e.   having an encoded

        Applicant argues (see Remarks, pages 9-10) that, "Vamparys discloses only

a single recommendation that is provided to the user" because of the level 2

aggregation step (832) and therefore, "the combination of the cited references

cannot perform a comparison of the two recommendations and select one with the

higher recommendation value as only a single recommendation is produced". The

examiner respectfully disagrees with applicant's statements, as the applicant

appears to have mischaracterized the reference. Examiner would like to point out

that figure 8, pages 17, lines 25- page 19, line 8, describes components or sub

blocks *within* a filtering engine, wherein the system comprises *multiple* filtering

engines, each of which is adapted for a different type of programming category (see

fig. 7, and page 16, lines 5-11). Accordingly, it is the filtering engine and not the

matching engines that reads on the claimed classifier modules. Furthermore, each

of the output of the filtering engines (706, 708, and 710) is also weighted with

coefficients (712, 714, 716 respectively), from which recommendations are built

(step 718, see figure 7). Therefore, Vamparys discloses generating weighted

recommendations from a plurality of filtering engines, when modified in view of

Hendricks and Jacobi teach the step selecting a higher recommendation value when

other recommendations fall below a threshold value.

        For the reasons stated above, the rejection is maintained.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 6, 15, 16, 21-22 and 25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to claims 6, 15, 16, 21-22 and 25, the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory. The computer program is not claimed in a process where the computer is executing the computer program's instructions, and therefore cannot be treated as a process claim. The claim further fails to recite the computer program in conjunction with a physical structure, such as a computer memory, and therefore cannot be treated as a product claim. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process.

With further regards to claim 15 and 16, the claim preamble recites, "a computer program product stored in a computer readable medium....when loaded into a computer processor causes the processor to execute the steps of", the preamble is not given any patentable weight because the body of the claim does not depend on the preamble for completeness, but instead the "computer program product" steps are able to stand alone. Furthermore, the computer program product has been disclosed as "several computer readable codes" and hence the "computer program product" is nonstatutory functional descriptive material.

Applicant is advised to review the "Interim Guidelines for Examination of

Patent Applications for additional Patent Subject Matter Eligibility" for additional

information.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 6, 13, 15, 16, 19 and 22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Vamparys (WO 01/15449) in view of Jacobi et al. (US Pat.

6,064,980) and Hendricks (US Pat. 5,798,785) et al..

With regards to claims 6, 13, 15, 16 and 19, Vamparys discloses a computer

implemented method for generating a recommendation of a program (see page 5,

lines 2-4), said method comprising the steps of:

Receiving a record corresponding to the program, the record including a program

category indication (see page 7, lines 21-25, page 9, lines 8-11, 18-21);

Generating a first recommendation of a program by a first recommendation

engine (i.e. first classifier module), and generating a second recommendation of a

program by a second recommendation engine (i.e. a second classifier module),

wherein the first classifier module trained with a first program category and the

second classifier module trained with a second program category (see page 15,

lines 22-25, page 16, lines 1-2, 5-11 "a filtering engine can be better adapted one

content category than another content category"). Vamparys discloses the step

including a matching one or more program characteristics information (including

keywords, program title, ratings, category etc.) against viewer characteristics in

order to generate recommendations. See page 17, line 25-page 19, line 1.

Vamparys is silent on the step of generating the first and second recommendations

when the record program category indication fails to indicate at least one of a

plurality of programming categories.

Jacobi et al. presents a scenario in a recommendation system, wherein new

categories of items become available over time, however is absent from the being

categorized in the recommendation service. See column 3, lines 2-10. Examiner

notes that, because Vamparys indexing a plurality of characteristics of a program in

addition to categories (such as keywords), the first and second recommendation

engines are capable of generating recommendations in the absence of a un-

identified new category in the recommender system. See page 17, line 25- page

18, line 15. Vamparys further shows associating weights with the plurality of

recommender engines (see figure 7, 712 and 714), however is silent on the step of

selecting a higher of the two weighted (ranking) recommendation. Hendricks

discloses the method of comparing weighted recommendations against a minimum

weighted index, and eliminating recommendations that falls below the minimum

weight. See Hendricks: column 32, lines 57-62.

It would have been obvious to modify the system of Vamparys by continuing to generate recommendation on new items comprising new categories that fail to be identified at the recommender engine by using other pre-existing program characteristics, such as keywords, when the program category indication fails to indicate at least one of a plurality of existing categories, upon generating a first and second recommendations that are ranked with weighted coefficients and further modifying the system in view of Hendricks by eliminating a first or second recommendation when it falls below the minimum weight and keeping the recommendation that is above the minimum weight, thereby selecting the recommendation that has the higher ranking. The motivation is to enable recommendation of new programs based on viewer characteristics and other known program characteristics, such that programs cater more to viewer interests are presented to the user.

With further regards to claim 16 and 19, in accordance with the modified system, Vamparys discloses including category data as part of program record, the record therefore contains a program category indication, and when a new item of non-service category is present, the new item may not have any identifiable categories in the recommender system (see Jacobi: column 3, lines 2-10).

With regards to claim 22, the above modified system in selecting the highest ranking data, comprises the method of selecting between the first and second generated recommendations (see claim 6 above).

6. Claims 21, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Vamparys (WO 01/15449) in view of Jacobi et al. (US Pat. 6,064,980) and

Hendricks (US Pat. 5,798,785) et al. as applied to claims 15, 6, and 13, respectively

above, and further in view of Applicant's Admitted prior art ("AAPA")

       Claims 21, 25 and 26, recite the computer implemented method, wherein

one of the first and second classifier modules is a concept learning based classifier

and the other of the modules is a classifier for providing a probabilistic calculation.

As discussed above, Vamparys in view of Jacobi and Hendricks anticipate each

and every limitation of claims 6, 13 and 15, but fail to specifically recite the

limitations of Claim 21. However, within the same field of endeavor, AAPA

discloses the exact limitations and admits them as prior art (see Disclosure, page 6,

lines. 1-13 & 18-21). Accordingly, it would have been obvious to one having

ordinary skill in this art at the time of Applicant's invention to combine the teachings

of Hendricks and AAPA to provide a system, which incorporates well-known

learning techniques.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

       A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from

the mailing date of the advisory action. In no event, however, will the statutory

period for reply expire later than SIX MONTHS from the mailing date of this final
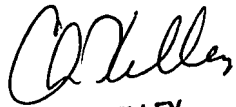
action.

8. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Usha Raman whose telephone number is (571) 272-

7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The

fax phone number for the organization where this application or proceeding is

assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like

assistance from a USPTO Customer Service Representative or access to the

automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-

272-1000.

UR

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